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BRIARCLIFF MANOR, NY 10510

EXAMINER
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CARTER, WILLIAM JOSEPH

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2875

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



## **DETAILED ACTION**

### ***Claim Objections***

Claims 5, 16, and 19 are objected to because of the following informalities:

In claim 5, line 2, "the same" lacks antecedent basis.

In claims 16 and 19, "mechanical locking" cannot be "unrelated to adhesion."

"Adhesion" is defined as "the measure of the strength by which two materials bond together" (<http://www.google.com/search?sourceid=navclient&aq=t&ie=UTF-8&rls=GGLD,GGLD:2004-30,GGLD:en&q=define%3aadhesion>) and "bond" is defined as "a connection that fastens things together" (<http://www.google.com/search?sourceid=navclient&aq=t&ie=UTF-8&rls=GGLD,GGLD:2004-30,GGLD:en&q=define%3abond>). Therefore any type of "mechanical locking" will be at least related to "adhesion."

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 16-20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed,

had possession of the claimed invention. The mechanical locking being activatable responsive to a removal force applied to the light source, such activatability being due to the removal force transformable by the cement in the first portion into mechanical pressure by the cement in the second portion against the shape, the mechanical pressure being in accordance with a retaining force that has a component parallel to a direction of the removal force is not present in the specification.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 4-7, and 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maassen et al. (EP 0 336 478 A1) in view of van der Heijden (5,001,387).

With respect to claims 1 and 10-12, Maassen teaches a lighting unit (Fig. 1) provided with a concave reflector (1) having an axis of symmetry (2) with a light emission window (4) bounded by an edge of the reflector (3) that is transverse to the axis (Fig. 1), an elongate body (22) arranged substantially axially on the axis of symmetry (Fig. 1) and accommodated in a holder (6) opposite the light emission window, an axially positioned cap (10) serving as an optical screening means which surrounds the light source at least partly so as to intercept unreflected light rays (Fig. 1),

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characterized in that the light source is surrounded by a sleeve (10 and 24) having an end facing light emission window, and the cap is positioned over the sleeve adjacent the end provided at the sleeve (Fig. 1). Maassen does not explicitly teach the cap is positioned by means of a locking element that is a mechanical piece distinct from the cap. Van der Heijden, also drawn to lighting units, teaches a cap (7) is positioned by means of a locking element (12) that is a mechanical piece distinct from the cap (Fig. 2). It would have been obvious to one of ordinary skill in the art, at the time of the invention, to use the locking element of van der Heijden in the lighting unit of Maassen, in order to avoid displacement of the cap with respect to other parts of the lighting unit (column 3, lines 30-32).

As for claim 2, Maassen further teaches the cap (10) is provided with a screening ring (top edge of 10) which is impermeable to light and which extends transversely (Fig. 1) the axis of symmetry (2).

With respect to claims 4 and 5, Maassen teaches all of the claimed elements, as discussed above, as well as teaching the sleeve is provided with an outer surface (Fig. 1). Maassen does not explicitly teach the sleeve has at least one recess is present into which a portion of the locking element grips by partly mating into the at least one recess and at the same time lies enclosed with another portion in a mating locking holder of the cap. Van der Heijden teaches a sleeve (3) has at least one recess (recess in 11) is present into which a portion of a locking element (12) grips by partly mating into the at least one recess (Fig. 1). It would have been obvious to one of ordinary skill in the art, at the time of the invention, to use the locking element of van der Heijden in the lighting

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unit of Maassen, in order to avoid displacement of the cap with respect to other parts of the lighting unit (column 3, lines 30-32). Although van der Heijden does not explicitly teach the locking element (12) lies enclosed with another portion in a mating locking holder of the cap (7), this claim limitation would be met if the locking element (12) and the cap (7) were separable. It would have been obvious to one of ordinary skill in the art, at the time of the invention, to make the locking element (12) and the cap (7) separable, since it has been held that constructing formerly integral structure in various elements involves only routine skill in the art. *Nerwin v. Erlichman*, 168 USPQ 177, 179.

As for claim 6, Maassen further teaches the reflector (1) and the light source are indetachably integrated into a lamp (Fig. 1).

As for claim 7, Maassen further teaches the holder (6) is provided with a locking mechanism (mechanism that holders the light source and sleeve in the holder in Fig. 1) adjacent a connection to the light source (22) and the sleeve (10 and 24).

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Maassen and van der Heijden as applied to claim 6 above, and further in view of Zhao et al. (6,382,816).

With respect to claim 8, Maassen and van der Heijden teach all of the claimed elements, as discussed above, except for explicitly teaching the lamp is a metal halide lamp with a ceramic discharge vessel. Zhao, also drawn to lighting with reflectors, teaches a lamp is a metal halide lamp with a ceramic discharge vessel (column 7, lines 52-53). It would have been obvious to one of ordinary skill in the art, at the time of the

invention, to use the lamp of Zhao in the light of Maassen, in order to use a light source with a high light output for its size ([http://en.wikipedia.org/wiki/Metal\\_halide\\_lamp](http://en.wikipedia.org/wiki/Metal_halide_lamp)).

Claims 9 and 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maassen and van der Heijden as applied to claim 6 above, and further in view of Ooms (5,506,464).

With respect to claim 9, Maassen and van der Heijden teach all of the claimed elements, as discussed above, except for explicitly teaching a ceramic lamp base which is connected to the assembly of the reflector and light source by means of cement, and in that the cement forms an interlocking fixture. Ooms, also drawn to reflecting light fixtures, teaches a ceramic lamp base (20) which is connected to an assembly of a reflector (1) and light source (10) by means of cement (29), and in that the cement forms an interlocking fixture (Fig. 1). It would have been obvious to one of ordinary skill in the art, at the time of the invention, to use the lamp base and connection technique of Ooms in the light of Maassen, in order to fix the components of the light fixture together (Fig. 1).

As for claims 13-15, Maassen and van der Heijden teach all of the claimed elements, as discussed above, as well as Maassen teaches a sleeve and cap surrounding the elongate body/light source (Fig. 1). Maassen and van der Heijden do not explicitly teach the light source including a discharge vessel and a bulb surrounding the discharge vessel. Ooms teaches a light source (10) including a discharge vessel (12) and a bulb (11) surrounding the discharge vessel (Fig. 1). It would have been obvious to one of ordinary skill in the art, at the time of the invention, to use the light

source of Ooms in the light of Maassen, in order to provide a desirable and favorable light source with a very small risk of flash-over (column 3, lines 8-17).

### ***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1, 2, 6, and 8 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 2, 6, and 8 of copending Application No. 10/510,310 in view of van der Heijden. Although the conflicting claims are not identical, they are not patentably distinct from each other because the copending Application No. 10/535293 also teaches the metal halide lamp with a ceramic discharge vessel that is indetachably integrated with the reflector into a lamp, with the same orientation, and the same optical screen cap that is provided with



the same edge/screening ring. A locking element is not explicitly cited in the claims, but van der Heijden teaches a locking element (12). It would have been obvious to one of ordinary skill in the art, at the time of the invention, to use the locking element of van der Heijden in the light of the copending Application No. 10/510,310, in order to avoid displacement of the cap with respect to other parts of the lighting unit (column 3, lines 30-32).

This is a provisional obviousness-type double patenting rejection.

#### ***Allowable Subject Matter***

Claim 3 is allowed.

#### ***Response to Arguments***

Applicant's arguments filed 5 December 2007 have been fully considered but they are not persuasive. Regarding the van der Heijden reference, item 7 meets WordNet definition for cap: "something serving as a cover or protection" (see: <http://wordnet.princeton.edu/perl/webwn?s=cap>). Therefor the examiner is interpreting item 7 as the cap, not item 3 that van der Heijden refers to as a "cap." This oversight by the Applicant clearly exonerates the examiner from the Applicants' charge that the rejection was "based on searching for keywords from Applicants' claims," since the only duplicate keyword isn't even addressed in the examiner's rejection. The Applicant argues that the references do not recognize the problem that the Applicants recognize in their disclosure. The van der Heijden reference does explicitly point out prior art that

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uses glue to connect a cap (column 2, lines 30-37), while explicitly pointing out the advantages of using a mechanical fixing means for locking the cap into place (column 2, lines 15-29). While van der Heijden gives many reasons for mechanical stability in the cited passage, a different purpose does not alter the conclusion that its use in a prior art device would be prima facie obvious from the purpose disclosed in the reference." In re Lintner, 173 USPQ 560.

As for claims 4 and 5, only the attachment technique is taught by van der Heijden. By using the attachment technique (items 11 and 12) in use with the cap (7) of van der Heijden in the cap (10) of Maassen, all of the claim language is taught. The orientation of the cap (10) and sleeve (10 and 24) is taught by Maassen, therefore the outer surface is taught by Maassen.

As for claim 8, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to use the lamp of Zhao in the light of Maassen, in order to use a light source with a high light output for its size ([http://en.wikipedia.org/wiki/Metal\\_halide\\_lamp](http://en.wikipedia.org/wiki/Metal_halide_lamp)).

As for claim 9, "interlock" is not defined in the specification and its use in context in the specification interpreted by the examiner as WordNet's definition: "hold in a locking position" (see: <http://wordnet.princeton.edu/perl/webwn?s=interlock>).

As for the Double Patenting Rejection, the examiner apologizes for the obvious typographical error in failing to change one of the many Scott citations to van der Heijden. Further it would have been obvious to one of ordinary skill in the art, at the time of the invention, to use the locking element of van der Heijden in the light of the

copending Application No. 10/510,310, in order to avoid displacement of the cap with respect to other parts of the lighting unit (column 3, lines 30-32).

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to WILLIAM J. CARTER whose telephone number is (571)272-0959. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra L. O'Shea can be reached on (571)272-2378. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

wjc

/Ali Alavi/  
Primary Examiner, Art Unit 2875

08/28/07